

**Before the
Federal Communications Commission
Washington D.C. 20554**

In the Matter of)	
)	
Appropriate Framework for Broadband Access)	CC Dockets No. 02-33; 95-20,
To the Internet Over Wireline Facilities)	98-10
)	
)	

Reply Comments of Self Help for Hard of Hearing People

Self Help for Hard of Hearing People submits reply comments in the instant proceedings, which address the framework issue, universal service and FCC jurisdiction over enhanced services.

Summary

In these reply comments, SHHH wishes to associate itself with comments made by the Alliance for Public Technology (APT), (filed April 15, 2002); the Rehabilitation Engineering Research Center on Telecommunications Access (RERC), (filed May 3; 2002), the National Association of the Deaf (NAD) (filed April 15, 2002) and TDI (formerly Telecommunications for the Deaf Inc.), filed May 3, 2002.

Self Help for Hard of Hearing People (SHHH) is a nonprofit, consumer, educational organization, founded in 1979 and devoted to the welfare and interests of those who cannot hear well, their relatives and friends. SHHH has 17,000 members and 250 chapters in 50 states. It is the largest consumer organization in the United States representing people with hearing loss. As the voice for hard of hearing people, SHHH strives to improve the quality of life for hard of hearing people through education, advocacy, and self help. SHHH influences national policy to improve the rights of and services for hard of hearing people, research on issues related to hearing loss, and public awareness of the rights and needs of this population.

1. Certain Broadband Services Should Be Classified As Telecommunications Services

SHHH urges the FCC to conclude that the transmission component of wireline Broadband Internet service provided over an entity's own facilities is a telecommunications service. The Commission should look to the functionality of a service for its end users when making this determination, and not to the fact that a service may provide many more options than just information services. As RERC pointed out in their comments¹ in this proceeding,

¹ Comments of the Rehabilitation Engineering Research Center on Telecommunications Access, May 3, 2002 at pp. 4-5.

The definition of telecommunications services has never been limited to conversations using voice.... [T]he Commission specifically determined that a form of IP telecommunications is covered by the Communications Act under Title II....[W]hen Congress enacted Section 255, it did not direct the Commission to distinguish among conversations that would take place using speech, text, video or other modalities. Rather, it was the intent of the Legislature that individuals with disabilities not be left behind as the rest of the nation came to benefit from new and innovative methods of achieving communications.

SHHH strongly agrees with the conclusion that the Commission should look to the function and services that are provided when deciding how to classify Broadband services. SHHH believes that it was not the intent of Congress, when it enacted Section 255, to limit the protection of Americans with disabilities to “narrowband” communications. Accordingly, certain Broadband services must be classified as telecommunications services.

2. Broadband Devices and Services Must Be Accessible And Useable

Broadband devices as well as services must be accessible to and useable by people with disabilities, since devices are used to encode, decode, use and send broadband information. Thus, broadband is more than just a transmission mechanism, as was noted in the comments of NAD, APT, TDI, and the RERC on Telecommunications Access. If the devices are not accessible, the services as well the products must be compatible with widely available adaptive technologies. Just as Section 255 requires that telecommunications products and services be accessible to and useable by people with disabilities, if readily achievable, and, if not readily achievable, to be compatible with adaptive technologies, similar requirements are necessary for broadband.

As was noted by both NAD and TDI in their comments,² in order for broadband to reach its potential for many Americans with disabilities, very high- speed communications are necessary. A minimum of 2 megabits per second (2 Mbps) speed, in all directions, is required for peer-to-peer signing and lipreading. Further, “[I]t is hard to imagine a greater benefit to persons with hearing disabilities than the ability to communicate with friends and family through peer-to-peer signing carried over the Internet. The ability for a person with hearing disabilities to actually see the person with whom he is communicating vastly improves the level of communication over what is currently available through TTY devices.”³ In addition, RERC noted, “...for people who are hard of hearing and need to see the speaker...video can also offer the opportunity to read lips and see facial expressions.”⁴ That ability requires speeds between 2 Mbps to 5 Mbps. The Commission noted in its NPRM that such speeds are technologically feasible today, even though they are not widely offered. SHHH joins with NAD in arguing that the FCC

² NAD Comments, April 15, 2002; TDI Comments, May 3, 2002.

³ TDI Comments at p. 6.

⁴ RERC Comments at p.14.

recognize that a definition of “broadband” as comprising speeds of merely 200 kilobits per second in one direction is much too low.

3. The FCC Must Act To Maintain The Accessibility Of Broadband For All Americans With Disabilities.

SHHH agrees with the RERC on Telecommunication Access that

Historically, market forces alone have been insufficient to ensure the existence and availability of accessible products and services....It was precisely this market failure which prompted Congress, on multiple occasions, to enact legislation that would ensure that people with disabilities would not be left behind as telecommunications technology moved forward. The Americans with Disabilities Act’s requirement for relay services, the Hearing Aid Compatibility Act’s requirement for compatible wireline phones, and other federal mandates for telecommunications service and product accessibility all reflect the recognition and understanding that regular market forces, alone have not and will not bring about access needed for people with disabilities to lead independent and productive lives. That Congress understood the need for disability safeguards even amidst its effort to deregulate nearly the entire telecommunications industry is best reflected by the passage of Section 255 itself.⁵

In the instant Notice of Proposed Rulemaking,⁶ the Commission explains that it has declined to exercise its jurisdiction over information (enhanced) services in the past because it has always found the market for these services to have “effective competition.”⁷ SHHH argues that the marketplace does not provide this competition in this instance. Therefore, the Commission must act. Under Title I, the FCC has ancillary jurisdiction to act in the public interest. This provides the necessary authority for the Commission to act to preserve the public’s interest in ensuring access to Broadband services by people with disabilities. SHHH concurs with the positions of the NAD, TDI, APT and RERC that the FCC must act to preserve access to Broadband service by Americans with disabilities.

SHHH thanks the Commission for this opportunity to comment on these proceedings.



Susan B. Matt, R.N., M.A., J.D.
Interim Executive Director
Self Help for Hard of Hearing People

⁵ RERC Comments at pp. 9-10.

⁶ *In the Matter of Appropriate Framework for Broadband Access to the Internet Over Wireline Facilities, Notice of Proposed Rulemaking*, CC Dkts 02-33; 95-20; 98-10, FCC 02-42 (rel. Feb. 15, 2002).

⁷ NMPR at ¶39